

EMERGENCY

City of Cincinnati

SJF/PBM/cpe

An Ordinance No. 236 - 2015

**MODIFYING** the provisions of Cincinnati Municipal Code Chapter 759, "Use of a Motor Vehicle to Facilitate a Prostitution or Drug Related Crime," by amending Section 759-7, "Answer to Notice; Hearings," Section 759-9, "Posting Bond," Section 759-11, "Default," Section 759-13, "Appeal," and Section 759-15, "Sales of Impounded Vehicles," all for the purpose of increasing the civil penalties and thereby the deterrent associated with using a motor vehicle for prostitution or solicitation of a prostitute.

WHEREAS, Ohio ranks fifth in the nation for human trafficking, and 88 percent of Ohio's human trafficking involves sex trafficking; and

WHEREAS, sex trafficking and prostitution-related offenses have a devastating impact on Cincinnati communities and on the victims of human trafficking; and

WHEREAS, individuals frequently use motor vehicles to engage in prostitution, and an increase in the dollar amount of civil penalties for using motor vehicles for this purpose will discourage this particular activity, thus serving as a deterrent to human trafficking in Cincinnati; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Section 759-7, "Answer to Notice; Hearings," is amended to read as follows:

**Sec. 759-7. - Answer to Notice; Hearings.**

- (a) The owner of the impounded vehicle may admit that the commission of the offense by payment of the fine ~~specified in § 1501-99 for a Class D Civil Offense~~ equal to the amount of the fine for the underlying civil offense, plus any and all accumulated towing and storage costs in accordance with § 513-7, and secure the immediate release of the impounded vehicle; or
- (b) A person served with notice of a violation of § 759-2, § 759-3 or § 759-4 may answer the charge in accordance with § 1501-15 and may request a hearing before a hearing examiner in accordance with § 1501-17. At the hearing, the city shall have the burden to show by a preponderance of the evidence that the vehicle was used in violation of § 759-2, § 759-3 or § 759-4. It shall be an affirmative defense to this charge if the vehicle owner is able to establish, by a preponderance of the evidence, that the vehicle was stolen at the time of the commission of the offense. For purposes of this chapter, "stolen" shall mean the

trespassory taking and carrying away of the tangible personal property of another with the intent to permanently deprive.

If the hearing examiner finds that the vehicle was subject to impoundment in violation of § 759-2, § 759-3 or § 759-4, then the hearing examiner may enter an order finding the person charged liable to the city for the fine specified in § 1501-99 for a ~~Class D Civil Offense~~ the underlying civil offense, plus any and all accumulated towing and storage costs in accordance with § 513-7.

If the hearing examiner finds that the city did not meet its burden of proof as set forth in this section, that one of the exceptions of § 759-5(d) applies, or that the vehicle was stolen at the time it was impounded, the vehicle shall be returned to the owner along with any posted cash bond, costs or fees.

Section 2. That Section 759-9, "Posting Bond," is hereby amended to read as follows:

**Sec. 759-9. - Posting Bond.**

The owner of the impounded vehicle may secure release of the vehicle by posting a cash bond ~~in the amount of five hundred dollars~~ equal to the amount of the fine for the underlying civil offense together with all towing and storage costs in accordance with § 513-7. Upon a finding that the vehicle was subject to impoundment in violation of § 759-2, § 759-3, or § 759-4 or upon an admission of the offense, any amount posted as bond to secure the release of the vehicle will be credited to the amount owed as determined by the hearing examiner in accordance with § 759-7(b).

Section 3. That Section 759-11, "Default," is hereby amended to read as follows:

**Sec. 759-11. - Default.**

If a person served with notice of a violation of § 759-2, § 759-3 or § 759-4 is deemed to be in default as set forth in § 1501-21, it shall be deemed admitted that the vehicle was subject to impoundment in violation of § 759-2, § 759-3, or § 759-4 and the fine class specified in § 1501-99 ~~for a Class D Civil Offense~~ shall be deemed delinquent.

Section 4. That Section 759-13, "Appeal," is hereby amended to read as follows:

**Sec. 759-13. - Appeal.**

A person served with notice of a violation of § 759-2, § 759-3 or § 759-4 has all of the rights and opportunities for appeals of civil offenses as set forth in sections 1501-23 through 1501-999.

Section 5. That Section 759-15, "Sales of Impounded Vehicles," is hereby amended to read as follows:

**Sec. 759-15. - Sales of Impounded Vehicles.**

Vehicles impounded pursuant to this Chapter shall be subject to sale as set forth in § 513-11, provided that the city may not begin proceedings to sell the vehicle when the city is notified by the owner of the impounded vehicle that the violation of § 759-2, § 759-3 or § 759-4 is under pending appeal.

Section 6. That existing Section 759-7, "Answer to Notice; Hearings," Section 759-9, "Posting Bond," Section 759-11, "Default," Section 759-13, "Appeal," and Section 759-15, "Sales of Impounded Vehicles," of the Cincinnati Municipal Code are hereby repealed.

Section 7. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to increase the dollar amount of civil penalties for the use of a motor vehicle to engage in prostitution, thus serving to deter prostitution and solicitation of prostitution in the City of Cincinnati.

Passed:

June 24, 2015

Attest:

Maria J. [Signature]  
Clerk

[Signature]  
Mayor

New language is underscored. Deleted language is struck through.

I HEREBY CERTIFY THAT ORDINANCE No. 236-2015  
WAS PUBLISHED IN THE CITY BULLETIN  
IN ACCORDANCE WITH THE CHARTER ON 2-7-15  
Melissa [Signature]  
CLERK OF COUNCIL